

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

BARBARA BERRY, S.A. de C.V.,

Plaintiff,

v.

KEN M. SPOONER FARMS, INC.,

Defendant.

Case No. C05-5538FDB

ORDER FOR JOINT STATUS  
REPORT


Plaintiff appealed this Court's grant of summary judgment in favor of Defendant. The Ninth Circuit Court of Appeals reversed and remanded the Order, concluding that there were issues of fact in the formation of the Barbara Berry-Spooner Farms contract under the Convention on Contracts for the International Sale of Goods (when a contract was formed, what terms were included, and whether those terms were later varied); specifically, whether the limitation of liability provision within Spooner Farms' invoice or printed on the top of the boxes in which the goods were shipped is a part of the contract that was reached between the parties. Additionally, the Appellate Court concluded that some further discovery is likely appropriate.

NOW, THEREFORE, IT IS ORDERED: The parties shall submit by no later than January 30, 2008 a Joint Status Report setting forth information as to the following:

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1. Whether mediation is appropriate;
2. When any further discovery may be concluded;
3. When the case ready for trial and suggested trial dates when counsel are available;
4. Whether trial is jury or nonjury, and how long it will take to try the case; and
5. Any other pertinent information or suggestions for expeditiously handling this case.

DATED this 21<sup>st</sup> day of December, 2007.

  
FRANKLIN D. BURGESS  
UNITED STATES DISTRICT JUDGE